

Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Office of the Governor - Commission for the Blind and Visually Impaired:

IDAPA 15.02.02 - Rules Pertaining To Vocational Rehabilitation Services - Proposed Rule (Docket
No. 15-0202-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/23/2014. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/22/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Legislative Research Analyst - Elizabeth Bowen
DATE: September 04, 2014
SUBJECT: Office of the Governor - Commission for the Blind and Visually Impaired

IDAPA 15.02.02 - Rules Pertaining To Vocational Rehabilitation Services - Proposed Rule (Docket No. 15-0202-1401)

The Idaho Commission for the Blind and Visually Impaired submits notice of proposed rulemaking at IDAPA 15.02.02. The proposed rule increases the cost coverages available under the Vocational Rehabilitation Program Payment Policy in order to meet the increasing costs of vocational rehabilitation services.

There is no negative fiscal impact to the state general fund. The Commission conducted negotiated rulemaking. The rule is consistent with the Commission's rulemaking authority under Section 67-5407, Idaho Code.

cc: Office of the Governor - Commission for the Blind and Visually Impaired
Angela Jones

**IDAPA 15 - OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED**

15.02.02 - VOCATIONAL REHABILITATION SERVICES

DOCKET NO. 15-0202-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5407, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Commission for the Blind and Visually Impaired (ICBVI) is increasing the cost coverages available under the Vocational Rehabilitation (VR) Program Payment Policy. These changes are necessary to keep up with the increasing costs associated with vocational rehabilitation services.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

These rules will have no effect on the state general fund. There is a negative fiscal impact, but the changes will be federally funded.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014 Idaho Administrative Bulletin, [Vol. 14-7, page 40](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bruce Christopherson, Rehabilitation Services Chief, at (208) 334-3220 ext. 110 or at bchristopherson@icbvi.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2014.

DATED this 6th day of August, 2014.

Bruce Christopherson
Rehabilitation Services Chief
Idaho Commission for the Blind and Visually Impaired
341 W. Washington St.
P. O. Box 83720
Boise, ID 83720-0012
Phone: (208) 334-3220 ext. 110
Fax: (208) 334-2963

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0202-1401
(Only those Sections being amended are shown.)

110. ELIGIBILITY.

01. Eligibility Requirements. Eligibility of a client for vocational rehabilitation services shall be based upon a determination by the Commission that: (4-2-08)

a. The client is blind or visually impaired; (4-2-08)

b. The client's blindness or visual impairment constitutes or results in a substantial impediment to employment; and (4-2-08)

c. There is a reasonable expectation that vocational rehabilitation services will benefit the client in terms of securing, retaining, or regaining employment. (4-2-08)

d. The client has a disability priority which can include no significant disability (NSD), significant disability (SD), or most significant disability (MSD). ()

02. Residency Requirements. A client must have legal residence status, be able to complete an employment eligibility verification, and be present in the state. (4-2-08)

03. Presumptive Eligibility. Individuals who are current SSI or SSDI beneficiaries are presumed to be eligible for vocational rehabilitation services unless the Commission can demonstrate by clear and convincing evidence that such individuals are incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of their disability. (4-2-08)

04. Certificate of Ineligibility. If an individual is determined ineligible for services, a certificate of ineligibility will be prepared and a copy provided the individual or the individual's representative. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

300. PAYMENT POLICY.

01. Upper Limits. In order to ensure a reasonable cost to the Commission's vocational rehabilitation program for provision of certain enumerated services, and in accordance with 34 CFR 361.50, the Commission hereby establishes upper limits on dollar amounts it will contribute to clients for certain categories of services provided as part of an implemented IPE pursuant to Section 210 of these rules: (4-2-08)

a. Education expenses - public in-state institutions. ()

i. Education expenses, including fees, tuition, and health insurance costs, for enrollment at public in-state institutions: Ninety percent (90%) of the actual costs for two (2) semesters per federal fiscal year at the institution of enrollment. (5-8-09)

ii. The Commission may assist with an advanced degree based on the rehabilitation needs of the individual client, but only if the client is unable to achieve employment with an undergraduate degree. ()

b. Education expenses - private in-state institutions. ()

i. Education expenses, including fees, tuition, and health insurance costs, for enrollment at Idaho private in-state colleges, private in-state vocational technical schools, private in-state universities, and other private

in-state education and training institutions and including enrollment in summer school: Ninety percent (90%) of actual costs for two (2) semesters per federal fiscal year up to an amount not to exceed actual costs per federal fiscal year at ~~Boise State University, Idaho State University, or University of Idaho, whichever is higher~~ a public Idaho college or university. If the client receives any grant or scholarship (except merit based scholarships), it shall be applied first for tuition or fees, books and supplies, in that order, before any expenditure of funds by the Commission. ~~(5-8-09)~~()

ii. The Commission may assist with an advanced degree based on the rehabilitation needs of the individual client, but only if the client is unable to achieve employment with an undergraduate degree. ()

c. Education expenses - out-of-state institutions. Education expenses, including fees and tuition, for enrollment at out-of-state colleges, universities, vocational technical schools, and other education and training institutions, and including enrollment in summer school: Ninety percent (90%) of actual costs for two (2) semesters per federal fiscal year up to an amount not to exceed actual costs per federal fiscal year that would be incurred at ~~Boise State University, Idaho State University, or University of Idaho whichever is higher~~ a public Idaho college or university. If the client receives any grant or scholarship (except merit based scholarships), it shall be applied first for tuition or fees, books and supplies, in that order, before any expenditure of funds by the Commission. ~~(5-8-09)~~()

i. If the client must attend an out-of-state institution because the course of study is not offered within the state of Idaho, the Commission, at its discretion may pay the "usual and customary" charges for fees and tuition up to the established limits. (4-2-08)

ii. If the course of study is offered in-state, but because of the additional costs caused by the accommodation for disability, it would be more cost effective for the Commission to have the client attend the out-of-state educational institution, the Commission, at its discretion, may pay the usual and customary fees and tuition charges for the out-of-state educational institution up to the established limit. (4-2-08)

iii. If the client chooses to attend an out-of-state institution even though the course of study is offered within the state of Idaho, the Commission will only pay an amount equal to the maximum cost for fees and tuition, up to the established limit, at the in-state-institution offering the course of study that is closest geographically to the Commission regional office assisting the client. (4-2-08)

d. Books and supplies. Actual costs of required books and supplies, including expenditures for books and supplies required for attendance of summer school. If the client receives any grant or scholarship (except merit based scholarships), it shall be applied first for tuition or fees, books and supplies, in ~~this~~ that order, before any expenditure of funds by the Commission. ~~(5-8-09)~~()

e. Medical exams including written report. (4-2-08)

i. Specialist exam by M.D.: ~~Two~~ Three hundred dollars (\$~~2300~~) plus actual cost of related procedures such as x-rays. ~~(4-2-08)~~()

ii. Psychological exam by licensed psychologist: Two hundred fifty dollars (\$~~2050~~) plus actual cost of psychometric tests. ~~(4-2-08)~~()

iii. Ophthalmologist/Optomtrist exam: ~~Two~~ Three hundred dollars (\$~~2300~~) plus actual cost of visual field exam or other necessary tests. ~~(4-2-08)~~()

(1) Low vision exam: One hundred ~~twenty five~~ forty dollars (\$~~12540~~). ~~(4-2-08)~~()

(2) Follow-up low vision consultation: ~~Fifty~~ Sixty-five dollars (\$~~565~~). ~~(4-2-08)~~()

(3) Eye report: Twenty-five dollars (\$25). (4-2-08)

iv. Eye glasses or contact lenses: Eighty ~~dollars~~ percent (~~\$80~~) for frames and the usual and customary cost for lenses and contact lenses. Nine hundred dollars (\$900) for bioptics. ~~(5-8-08)~~()

- v. Audiologist exam: ~~Eighty~~ One hundred twenty-five dollars (\$~~81~~25). (4-2-08)()
- vi. Physical exam (general basic medical): ~~Sixty~~ Eighty-five dollars (\$~~68~~5). (4-2-08)()
- f. Psychotherapy/Counseling sessions: Up to ten (10) hourly sessions at ~~eighty~~ one hundred dollars (\$~~8~~100) per hour. (4-2-08)()
- g. Medication and medical supplies (including diabetic supplies): Three hundred dollars (\$300) per month for up to three (3) months, during which client must apply for reduced cost or free medication programs provided by drug companies or other sources of comparable benefits, including Medicaid, Medicare Part D, or other insurance. After the expiration of the three (3) month period, the Commission will pay the state Medicaid rate for medication and medical supplies. (4-2-08)()
- h. Dental work, including but not limited to cleaning, fillings, extractions, crowns, and dentures: Five hundred dollars (\$500) per case. (4-2-08)
- i. Transportation. (4-2-08)
- i. Public conveyance (bus, van, airfare): Actual cost. (4-2-08)
- ii. Transportation costs associated with personal vehicle usage with or without personal driver: Two hundred dollars (\$200) per month within a twenty (20) mile radius (in-town commuting) and three hundred dollars (\$300) per month for commuting from greater than a twenty (20) mile radius (out-of-town commuting). ~~The Commission does not provide funds for a client's purchase of a motor vehicle~~ Exceptions can be approved by the Rehabilitation Services Chief. (5-8-09)()
- iii. Cab subsidy programs (Scrip) must be used by clients where available. (4-2-08)
- j. Maintenance: Three thousand dollars (\$3,000) per federal fiscal year and no more than five hundred dollars (\$500) per month. There is no limit on the number of months a client can receive maintenance up to the three thousand dollar (\$3,000) limit per federal fiscal year. These maximums also apply to room and board for post secondary education and to any rent payments. (3-29-12)
- i. The Commission will not pay maintenance for basic living expenses incurred by a client that are not directly related to the client's participation in an IPE for vocational rehabilitation services. (4-2-08)
- ii. If a client is participating in the Assessment and Training Center (ATC) and is not commuting to ATC for training, the maximum per month is three hundred dollars (\$300) for maintenance up to the three thousand dollars (\$3,000) per federal fiscal year. Over three hundred dollars (\$300) a month or three thousand dollars (\$3,000) per fiscal year requires approval from the VR Services Chief. Maintenance will not be paid during the ATC breaks. (3-29-12)
- k. Copy fees: ~~Fifteen~~ Twenty dollars (\$~~15~~20) for obtaining a copy of any report or other record from an outside agency or entity required by the Commission in order to determine a client's eligibility or otherwise provide vocational rehabilitation services. (4-2-08)()
- l. Tools and equipment: One thousand dollars (\$1,000) per case. Value of tools and equipment provided to client from existing Commission inventory will count towards the one thousand dollar (\$1,000) limit. If there is a change in client's employment outcome, the client shall return the original tools and equipment to the Commission. The Commission will not provide or purchase additional tools or equipment for the client for any new employment outcome until the original tools and equipment have been returned to the Commission. (4-2-08)
- m. On-the-Job training fees: Three thousand dollars (\$3,000). (4-2-08)
- n. Computers including hardware and software: One thousand dollars (\$1,000) per case. If the Commission determines that a change in computers is necessary as appropriate, the client shall return the original computer to the Commission. The Commission will not provide or purchase a new or different computer for the client

until the original computer has been returned. (4-2-08)()

o. Self-employment plans: Three thousand dollars (\$3,000). (4-2-08)

p. Child care: Three hundred dollars (\$300) per child per month. The client shall apply and use Department of Health and Welfare child care funding as a comparable benefit before any expenditure of Commission funds towards IPE related child care. (4-2-08)

q. Vehicle purchase: The Commission may provide finances to modify an already owned vehicle to make it accessible for the client's use under the following circumstances: ()

i. The cost of the modification cannot exceed the current Blue Book value of the vehicle; ()

ii. The client must maintain insurance on the vehicle for replacement cost; ()

iii. The Commission encourages the use of loans from ITAP, and independent living centers; and ()

iv. The Commission can aid in the purchase of used vehicles as long as the used vehicles are a part of the approved self-employment plan or a part of the Business Enterprise Program. ()

02. Exclusion of Surgery ~~and Organ Transplantation.~~ (4-2-08)

~~**a.**~~ The Commission does not provide funds for a client's surgery when the surgery is the only service required for the client to achieve an employment outcome or otherwise return to work. (4-2-08)()

~~**b.**~~ The Commission does not provide funds for a client's organ transplantation. (4-2-08)

03. Authorization to Purchase. When purchasing services from a vendor, the Commission requires a written authorization be issued prior to, or on the beginning date of, service. If services are provided without an approved written authorization to purchase, the Commission reserves the right to refuse payment on the vendor's invoice. Verbal authorization for a service may only be given by the ~~#~~Rehabilitation ~~s~~Services ~~e~~Chief or the Commission administrator. If a client fails to show up for an appointment, the client shall be responsible for payment of any charges resulting from the client's failure to show up for the appointment. (4-2-08)()

04. Exception Policy. Any and all exceptions to the upper limits established by Subsection 300.01 of these rules will be reviewed on an individual case basis, and require approval by the ~~#~~Rehabilitation ~~s~~Services ~~e~~Chief of the Commission. (4-2-08)()

301. -- 354. (RESERVED)

355. CLIENT APPEALS.

01. Informal Dispute Resolution. Within fifteen (15) calendar days of notification of the contested action, lack of action or decision, the client may request that an informal dispute resolution be held. The request shall be made in writing to the ~~#~~Rehabilitation ~~s~~Services ~~e~~Chief. The written request should state the reason for the review. (4-2-08)()

a. The ~~#~~Rehabilitation ~~s~~Services ~~e~~Chief shall inform the client in writing as to the time, place, and date of the informal dispute resolution. The client may choose to represent himself or may have a representative speak on his behalf. (4-2-08)()

b. The ~~#~~Rehabilitation ~~s~~Services ~~e~~Chief will make a decision regarding the specifics of the informal dispute resolution. This decision will be in written form and it will be sent to the client, with a copy in the case file. (4-2-08)()

02. Mediation. The request shall be made in writing to the ~~Rehabilitation Services~~ Chief. A written request shall state the reason for the review. The mediation must take place within sixty (60) days of client's request. ~~(4-2-08)~~()

03. Impartial Due Process Hearing. An impartial due process hearing can be held without an informal dispute resolution or mediation or if the client is dissatisfied with the result of the informal dispute resolution or mediation. The impartial due process hearing will deal with the issues involved in the original Informal dispute resolution or mediation, if one took place. The request for an impartial due process hearing shall be made in writing to the administrator of the Commission within fifteen (15) calendar days of the ~~Rehabilitation Services~~ Chief's decision from the informal dispute resolution or the mediation proceedings. The hearing by an impartial hearing officer must be held within sixty (60) days of a request by the client unless both parties agree to a specified delay. ~~(4-2-08)~~()